

COPY

FILED

2020 OCT 30 P 1:41

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON
FOR SPOKANE COUNTY

EMERGENCY STANDING ORDER

Eviction Resolution Program (ERP)

This standing order shall be deemed part of the most recent version of Emergency Order #9 of Spokane County Superior Court. The specific findings made in that order are made part of this order and are adopted herein by reference. This order shall remain in effect from October 26, 2020 through December 31, 2020 unless otherwise extended or terminated by the Court.

1. **Findings. It is recognized that:**

- A. As a consequence of the COVID-19 emergency, Washington State has experienced unprecedented and evolving economic difficulties. The resulting loss of income has made it impossible for many families and individuals (tenants) to keep current in rental payments;
- B. Various federal, state, and local orders have prohibited most evictions during the COVID-19 emergency, but such orders will be lifted at some point;
- C. Many landlords also face hardship and loss of income due to the combined inability of tenants to keep current in their rent and the prohibition on evictions established by federal, state, and local authorities, as applicable;
- D. Many tenants currently face substantial arrearages and threat of immediate eviction upon termination of state and local eviction limitations;
- E. Court operations have been impacted since March 2020 due to COVID-19 and this Court continues to face an increased hearing backlog related to hearings and trials for civil, criminal, juvenile, and child welfare matters that had to be postponed for public health safety reasons;

- 1 F. Given the backlog this Court is facing of nearly all hearing types across Superior
2 Court, the anticipated renewal of unlawful detainer filings once the eviction
3 limitations are lifted presents an obstacle to the ability of this Court to timely hear
4 and fairly decide cases consistent with statutory deadlines, due process and
5 mandated procedures;
- 6 G. State and local rent-assistance programs offer available funding for immediate
7 assistance in addressing rent arrearages (or portions thereof);
- 8 H. Local Dispute Resolution Centers (DRC) and local housing justice project (HJP)
9 are prepared to assist tenants facing the threat of eviction and help tenants resolve
10 that threat through non-judicial processes including a newly created Eviction
11 Resolution Program (ERP);
- 12 I. This Court is one of six (6) counties that has agreed to participate in a pilot ERP;
- 13 J. The court designates Judge Timothy B. Fennessy to serve as the procedural point
14 person to work with relevant stakeholders on the implementation and ongoing
15 administration of the ERP and certifies such designation has been provided to
16 AOC₂;
- 17 K. Any questions or concerns regarding this program should be communicated via e-
18 mail to Dept11@spokanecounty.org;
- 19 L. The goal of the ERP is to divert residential unlawful detainer cases based on
20 nonpayment of rent through effective and fair conflict resolution and alternative
21 dispute resolution processes with the assistance of an impartial Eviction
22 Resolution Specialist (ERS) trained and provided by a local DRC while ensuring
23 tenants have access to community resources, including attorney representation
24 through the local Housing Justice Project (HJP), to reach a solution that preserves
25 the landlord and tenant relationship;
- M. That *prior to* the expiration of any state and/or local eviction limitations, the ERP
will encourage landlords and tenants to voluntarily participate in a structured
resolution process that offers a real prospect of resolving cases before they are
filed in court;
- N. This standing Order is issued to specifically mandate use of the ERP *after*
expiration of any state and/or local eviction limitations;

- 1 O. Substantial questions of fact and law may be present in unlawful detainer actions
2 filed *prior to* the expiration of any state and/or local limitations (including, but not
3 limited to, whether the grounds alleged are allowable bases for eviction under the
4 temporary limitations);
- 5 P. Chances for effective resolution of these cases are enhanced by early notification
6 to and involvement of Eviction Resolution Specialists and attorneys for tenants;
- 7 Q. Any residential unlawful detainer Complaint filed *prior to* the expiration of any
8 state and/or local limitations SHALL be accompanied by a certification that the
9 plaintiff/landlord notified a local DRC and HJP of the complaint filing, and
10 providing both with the Tenant's (Tenants') last known contact information
11 (address(es), telephone number(s), and email(s));
- 12 R. The certification shall be in the form detailed in the Order hereinbelow;
- 13 S. Success of the ERP depends on mandating its use to divert unlawful detainer
14 cases from the court thereby providing an opportunity to connect tenants, their
15 landlords and potential funding sources in an effort to ensure all court dockets are
16 managed effectively; and,
- 17 T. Local DRCs have been contractually engaged by the Administrative Office of the
18 Courts (AOC) on behalf of the Superior Court and are an integral component of
19 the pilot ERP.

20 *NOW, THEREFORE,*

21 IT IS ORDERED THAT:

22 I. Prior to filing a summons and complaint for nonpayment of rent, the landlord or landlord's
23 counsel, is:

24 *i. Mandated to comply with* ERP including Tier One and Tier Two processes once
25 the Governor's Moratorium is lifted (samples of the notices required under Tier One
and Tier two are attached hereto as Exhibit "A" and incorporated herein by
reference); and

ii. Mandated to file the ERP/DRC Certification Form attached hereto as Exhibit B at
the time of filing a summons and complaint with the court once the Governor's
Moratorium is lifted.

iii. Any landlord that voluntarily follows the procedures set forth above in paragraphs (A) and (B) prior to the lifting of the Governor's Moratorium will have followed the requirements of paragraphs (A) and (B) above and need not do so again once the Governor's Moratorium is lifted. Any breach of an agreement between the landlord and tenant utilizing the ERP/DRC process outlined above during the Governor's Moratorium period will be deemed satisfaction of paragraphs (A) and (B) above.

II. Prior to serving and/or filing a summons and complaint prior to the expiration of any state and/or local limitations, the plaintiff/landlord or counsel shall: (A) send the tenant's last known contact information (i.e. address(es), telephone number(s), and e-mail(s)) to the appropriate HJP and DRC for Spokane County via ***e-mail and/or mail***; and (B) file a certification with the court that states: I certify and declare under penalty of perjury under the laws of the state of Washington that on _____ (the date prior to filing), that I e-mailed/mailed notice of my intent to file a Complaint in Unlawful Detainer against Tenant _____ (insert Tenant's name) along with the Tenant's last known contact information (i.e. address(es), telephone number(s) and e-mail(s) to the appropriate HJP and DRC for this county.

Failure to comply with the conditions set forth in this order shall preclude the landlord from seeking affirmative relief from the court.

DATED this 30th day of October 2020.

Judge Harold D. Clarke, III

Exhibit A

EVICTIION RESOLUTION PROGRAM

OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Attention Landlords: This notice should be sent to the Dispute Resolution Center in the County where your property is located in addition to being provided to the tenant/s.**

****See DRC e-mails on page 2 of this Notice.*****

****Tenants: Please respond within 10 days of the date below!****

Date: _____

TO:	FROM: (Send Response here);
Name:	Name of Landlord (LL): Name of LL's Attorney:
Telephone	Telephone for LL: Telephone for LL's Attorney:
E-mail:	E-mail for LL: E-mail for LL's Attorney:

HELP & RESOURCES ARE AVAILABLE – DO NOT DELAY!

① **Tenants:** A NEUTRAL THIRD PARTY OR LOCAL LEGAL AID PROGRAM MAY BE ABLE TO HELP YOU WITH YOUR RENT AT NO COST TO YOU.

② **Tenants:** YOU MAY ASK FOR A MEDIATOR TO ASSIST YOU AND THE LANDLORD

③ **Tenants: GET HELP:** To get free early resolution or free legal help contact the **Dispute Resolution Center** or **Get a Lawyer** telephone numbers below in the county where you live.

RESOURCES

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Clark County	(360) 334-5862, ext. 1001	https://www.councilforthehomeless.org/erap/	(360) 334-4007
King County	(206) 443-9603, ext. 115	https://kingcounty.gov/depts/community-human-services/COVID/eviction-prevention-rent-assistance.aspx	(206) 267-7069
Pierce County	(253) 572-3657	https://www.piercecountywa.gov/housinghelp	(253) 572-5134
Snohomish County	(425) 339-1335 x3	Call 211	(425) 258-9283 Ext. 5

EVICTIION RESOLUTION PROGRAM

OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Attention Landlords:** This notice should be sent to the Dispute Resolution Center in the County where your property is located in addition to being provided to the tenant/s.

See DRC e-mails on page 2 of this Notice.*

RESOURCES – continued:

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Spokane County	(509) 456-0103 (509) 838-2799	www.snapwa.org Call 509-456-7627	(509) 477-2674
Thurston County	(360) 965-1155	http://www.caclmt.org/ https://hatc.org/community-resources/eviction-rent-assistance-program/	(360) 705-8194

① **Tenants:** The Dispute Resolution Center will attempt to contact you to engage in Early Dispute Resolution.

② **Tenants:** You may respond to this Notice and engage in Early Dispute Resolution within 10 days of the date above by contacting the Dispute Resolution Center, obtaining a free lawyer, or returning this completed form to your landlord (see information above). If possible, keep a copy of the form for yourself.

③ **Tenants:** *If you have received a Summons and Complaint, you should respond to the Summons by sending this Notice to the Landlord's attorney, or if no attorney, the Landlord.*

I want assistance in resolving my unpaid rent. My contact information is:

Tenant's Name: _____

Tenant's Address: _____

Tenant's Phone: _____ Tenant's Email: _____

Tenants: You may return this Form to your landlord to initiate Early Dispute Resolution.

Tenants: This Notice is available in different languages at: www.courts.wa.gov/EvictionResolutionProgram

Tenants: FREE INTERPRETER SERVICES are available through your local Housing Justice Project and Dispute Resolution Center

~~****Landlords:** You should send this Notice by email to the Dispute Resolution Center in the County where your property is located at the email address below.~~******

County	Dispute Resolution Email Address
Clark County	info@mediationclarkcounty.org
King County	housing@kcdrc.org
Pierce County	solveit@centerforresolution.org
Snohomish County	earlyresolution@voaww.org
Spokane County	info@nwmediationcenter.com intakespecialist@fulcrumdispute.com
Thurston County	info@mediatethurston.org

Exhibit B

EVICTIION RESOLUTION PROGRAM (ERP)

DRC CERTIFICATION: I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct.

Date of DRC Certification	1)
City & State of DRC Certification	2)
DRC Certification Authored by:	
Print name:	
Sign name:	
Case Type	
Date case opened with DRC	
DRC Contacted Tenant (if applicable)	
DRC's First Date of Attempted Contact	
DRC's Second Date of Attempted Contact	
DRC's Third Date of Attempted Contact	
Date agreed to Mediate	
Landlord Name	
Landlord's Counsel	
Tenant Name	
Tenant's Counsel	
Meet & Confer:	<input type="checkbox"/> YES <input type="checkbox"/> NO
Scheduled Date of Meet & Confer	
Actual Date of Meet & Confer	
Name of Eviction Resolution Specialist (ERS)	
Mediation:	<input type="checkbox"/> YES <input type="checkbox"/> NO
Landlord Declined Mediation	<input type="checkbox"/> YES <input type="checkbox"/> NO
Tenant Declined Mediation	<input type="checkbox"/> YES <input type="checkbox"/> NO
Name of Eviction Resolution Specialist (ERS)	

Early Resolution Achieved	[] YES [] NO
Offers:	
Landlord Agrees to Share Final Offer at Meet & Confer &/or Mediation?	[] YES [] NO
Final Offer: _____	
_____	[] YES [] NO
Tenant Agrees to Share Final Offer at Meet & Confer &/or Mediation?	
Final Offer: _____	

Date case closed with DRC	

NOTICE: By certifying herein, the Dispute Resolution Center is not making any certification as to whether the parties acted in good faith or whether any payment offers were reasonable in light of Governor Inslee's Proclamations regarding collection of rent.